IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

Crl.MC.No. 839 of 2007()

CC.539/2001 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ADOOR
C.C.973/04 OF J.F.C.M. - I, ADOOR

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PETITIONER: PETITIONERS/ACCUSED NO.3,4IN CC

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1. SUBI,S/O.VARGHESE,KOLLANTEKIZHAKKETHIL HOUSE,MANAKKALA,KOTTANALLUR MURI,ERATH VILLAGE.

2. EBIN,S/O.BABY,THEKKEVILAYIL HOUSE, MANAKKALA,KOTTANALLUR MURI,ERATH VILLAGE.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)

RESPONDENTS: RESPONDENTS/RESPONDENTS

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1. STATE OF KERALA REP.BY PUBLIC PROSECUTOR HIGH COURT OF KERALA,ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,ADOOR.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 839 of 2007

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Dated this the 22nd day of March, 2007

O R D E R

The petitioners face indictment in a prosecution, inter alia, under Sections 427 and 447 r/w. 149 I.P.C. The petitioners were not available for trial. The co-accused, who faced the trial, have already been acquitted. The case against the petitioners have been transferred to the list of long pending cases. The petitioners now want to surrender before the learned Magistrate. They apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioners on bail on the date of surrender itself.

2. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. The learned Magistrate, needless to say, must consider such cause on merits and pass appropriate orders. I have

no reason to assume that the learned Magistrate would not do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R. BASANT)
Judge

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